

ESTTA Tracking number: **ESTTA469235**Filing date: **04/25/2012**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	JohnGMarino
Granted to Date of previous extension	04/28/2012
Address	9069 Paseo De Valencia Fort Myers, FL 33908 UNITED STATES
Correspondence information	Scott M. Behren, Esq. Attorney for Marino Behren Law Firm 2893 Executive Park Drive Suite 203 Weston, FL 33331 UNITED STATES scott@behrenlaw.com Phone:954 636 3802

Applicant Information

Application No	85411955	Publication date	02/28/2012
Opposition Filing Date	04/25/2012	Opposition Period Ends	04/28/2012
Applicant	Laguna Lakes Community Association, Inc. c/o Alliant Property Management, LLC 6719 Winkler Road, Suite 200 Fort Myers, FL 33919 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2003/10/06 First Use In Commerce: 2003/10/06

All goods and services in the class are opposed, namely: Association services, namely, promoting the interests of condominium association and homeowner associations; managing the business affairs of common community associations of HOAs and condominium associations, and promoting the use of and managing the maintenance of real estate

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark is primarily geographically descriptive	Trademark Act section 2(e)(2)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	Mr. Laguna Lakes		
Goods/Services	Sale promotion and advertising of real estate and in particular in the Laguna Lakes Community in Florida.		

Attachments	Marino Opp Flnal.pdf (9 pages)(1071647 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Scott M. Behren/
Name	Scott M. Behren, Esq.
Date	04/25/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the matter of trademark application Serial No. 85411955
For the mark LAGUNA LAKES Published in the Official Gazette on
February 28, 2012**

JOHN GERARD MARINO

v.

LAGUNA LAKES COMMUNITY ASSOCIATION, INC.

NOTICE OF OPPOSITION

The above-identified opposer believes that he will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same. The grounds for opposition are as follows:

1. John Gerard Marino ("Marino") has been using the trade-name "Mr. Laguna Lakes" in the business of selling real estate in Laguna Lakes, a development in Ft. Myers, Florida since July 2005.
2. The Laguna Lakes Community Association, Inc. ("Laguna") , is a non-profit home-owners association that has only recently sought to register Laguna Lakes in a an effort to harm Marino.
3. The mark should not be registered in that it's merely geographically descriptive of a development and area in Ft. Myers, Florida.
4. Marino is the prior user of the name Laguna Lakes and used it prior to Laguna and as early as July 2005. Marino has used the trade-name "Mr. Laguna Lakes" since that time. See, attached Exhibit "A."

5. Laguna fraudulently represented that it is using the mark in interstate commerce when, in fact, it is not used in interstate commerce at all. It is not used interstate and is not used in "commerce" since Laguna is a non-profit entity. Laguna has sought to register the mark, solely to damage the business of Marino. See, attached Exhibit "A."

For all of the foregoing reasons and others as shall be proved in this case, Marino opposes the registration of the Laguna Lakes trademark by Laguna.

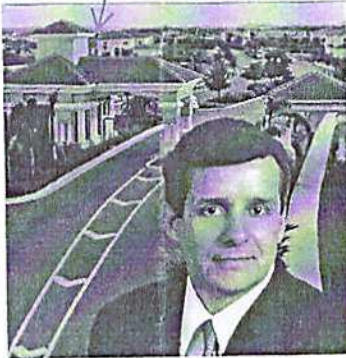
BEHREN LAW FIRM
2893 Executive Park Drive Suite 203
Weston, FL 33331
(954) 636-3802
scott@behrenlaw.com
By: 
Scott M. Behren
Fla. Bar 987786

4/25/12

8/3/2004

Laguna Lakes gate
house.

Mr. Laguna Lakes



Gerard Marino
"Mr. Laguna Lakes"

RE/MAX

Equal Housing Opportunity

Realty Group


7910 Summerlin Lakes Dr.
Fort Myers, FL 33907

(239) 851-8883 Direct

(239) 489-0444 Office

(239) 433-3094 Fax

(800) 330-SOLD Toll Free

gmarino@remax.net 

PRO PHOTO & DIGITAL
8945 COLLEGE PARKWAY
FORT MYERS FL 33919

DATE: 08/03/04

TIME: 17:39

MEMO: 991600005509

TERM: 0001

S-A-L-E-S D-R-A-F-T

REF: 0017 BCH: 091

CD TYPE: MC

TR TYPE: PR

AMOUNT:

\$37.10

ACCT: *****44998

EXP: ***

AP: 035999

CARDMEMBER ACKNOWLEDGES RECEIPT OF
GOODS AND/OR SERVICES IN THE AMOUNT OF
THE TOTAL SHOWN HEREON AND AGREES TO
PERFORM THE OBLIGATIONS SET FORTH BY THE
CARDMEMBER'S AGREEMENT WITH THE ISSUER

TOP COPY-MERCHANT BOTTOM COPY-CUSTOMER

POSTED

Exhibit 4-F

Above The Rest Imaging

2317 SE 20th Ave
Cape Coral, FL 33990

7/6/2005

Invoice

Date	Invoice #
7/6/2005	1157

Bill To

GERARD MARINO
9069 Paseo DeValencia St.
Fl. Myers, FL

Above The Rest

IMAGING

Laguna Lakes

P.O. No.

Terms

Project

Due on receipt

Quantity	Description	Rate	Amount
2	Low Altitude Photography Laguna lakes Florida Sales Tax	60.00 6.00%	120.00 0.00

JOHN GERARD MARINO, P.A. 08-02
1682 S. FLOSSMOOR RD.
FORT MYERS, FL 33919-6407

1282

63-4/630 FL
1120

Date 7/8/05

Pay to the
order of

ABOVE THE REST IMAGING

\$ 120-

One Hundred Twenty + no/kr

Dollars

Security Features
are included
on this invoice.

Bank of America



ACH R/T 063100277

For

1:0630000471: 0054820082431 1282

Total

\$120.00

Phone #

E-mail

Web Site

239-645-4406

Info@abovetherestimaging.com

www.abovetherestimaging.com

Exhibit 4-G

Domain name: **MRLAGUNALAKES.COM**

Administrative Contact:

Marino, Gerard gmarino007@gmail.com
PO Box 60733
Fort Myers, FL 33906
US
+1.2398518883

Technical Contact:

Marino, Gerard gmarino007@gmail.com
PO Box 60733
Fort Myers, FL 33906
US
+1.2398518883

Registration Service Provider:

Register4less, support@r4l.com
(514) 905-6500
<http://register4less.com>

Registrar of Record: TUCOWS, INC.
Record last updated on 05-Mar-2012.
Record expires on 17-Feb-2013.

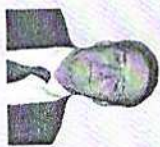
Record created on 17-Feb-2005.

Registrar Domain Name Help Center:

<http://tuowdomains.com>

Domain servers in listed order:

NS1.R4L.COM
NS2.R4L.COM



Gerard Marino, CCIM
"Mr. Laguna Lakes"
Direct: (239) 851-8883
gmarino@MrLagunaLakes.com

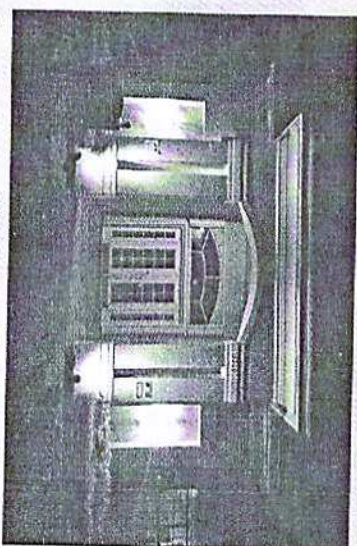
Mr. Laguna Lakes

No one KNOWS Laguna Lakes like "Mr. Laguna Lakes!"
Can your agent explain Laguna Lakes' CDD,
what it costs, why it's fair and why it's GOOD?
If not...you have the wrong agent!



Buy/Sell/Lease
Resident Agent
(239) 851-8883
Gerard Marino Amerivest Realty

No one MARKETS Laguna Lakes like "Mr. Laguna Lakes!"



Laguna Lakes Clubhouse Just Before Dawn

Laguna Lakes Properties Needed To Sell & Lease!

Gerard Marino
Amerivest Realty
PO Box 60733
Fort Myers, FL 33906

PERMIT STD
U.S. Postage
PAID
Fort Myers, FL
Permit No. 941

ECRWSS
POSTAL CUSTOMER



Exhibit 5-B

Community Association Inc.

Board of Director's Meeting Minutes

*Held on August 22nd, 2011 at 7:00pm at the Laguna Lakes Clubhouse,
Located at 15300 Lakes of Laguna Boulevard, Fort Myers Florida, 33908*

Approved Minutes

Present: President, Patrick Tardiff; Vice-President, Donna Flammang (by phone);
Treasurer, Bob Hajicek, Secretary, Jeff Kelley; Director, Mary Ann Cowart

Management Company: Patrick McGuire, CAM – Alliant Association Management (absent)
Kim Hertner, CAM – Alliant Association Management was present.

Chairperson of Meeting: President, Patrick Tardiff.

- 1) **Establish a Quorum/Call to Order:** A quorum was established and the meeting was called to order at 7:03 by Patrick Tardiff.
- 2) **Proof of Notice:** Notice was posted on August 15th on the website and on August 19th on the bulletin board.
- 3) **Disposal of Unapproved Minutes:** – Previous minutes will be approved at the next meeting.
- 4) **Treasurer's Report:**

i) Cash Operating	\$458,872.00
ii) Cash Reserves	\$179,490.00
iii) Cash Total	\$638,362.00
iv) Operating Actual YTD Expenses	\$707,423.00
v) Operating Budget YTD Expenses	\$725,001.00

5) **Committee Reports:**

- a) **Social Committee** – No report given
- b) **Landscaping Committee** -
 - i) **Items Completed**
 - (1) Ficus hedge was completed.
 - (2) Washingtonian palms were trimmed.
 - (3) Oak trees on Laguna Lakes parkways will be completed on Monday.
 - ii) **Proposals**
 - (1) Removal of 5 Hong Kong Orchids, Silver Buttonwoods, Green Island Ficus and Core Grass around the edge of the roundabout. Install sod. Everyday Maintenance proposal \$2,125.00
 - (2) Renovate 5 sprinkler zones on the roundabout. Irrigation Specialist proposal \$2,084.00.

Visit us at

www.lagunalakesassociation.com

This agenda was prepared by Alliant Association Management;

6719 Winkler Road Suite 200, Fort Myers Florida, 33919,

In accordance with Florida Statutes.

Cc: BOD; LLCA File

- (3) Sylvester Palm on the roundabout needs to be straightened. Gulf Coast Palm proposal \$275.00.
- (4) Total cost for the roundabout \$4,484.00.

MOTION: A motion was made by Donna Flammang to accept the proposal from Everyday Maintenance for \$2,125.00 for removal of 5 Hong Kong Orchids, Silver Buttonwoods, Green Island Ficus and Core Grass around the edge of the roundabout and install sod. And also accept the proposal from Irrigation Specialist to renovate 5 sprinkler zones on the roundabout for a cost of \$2,084.00. Seconded by Bob Hajicek. All in favor, motion passes.

c) Club House Committee –

- i) Billiard bar stools have been recovered.
- ii) Umbrellas were replaced in the pool area.
- iii) Water fountain is leaking for the fourth time this year.
- iv) Need to replace the two nets and poles at the tennis courts.
- v) Tarp cover on the gazebo is shredded.
- vi) Racket ball court needs either repairing or a member vote to change the use status.

(1) Proposals from Mark Wardell at Ritzman Tennis

- | | |
|------------------|--|
| (a) Net posts | \$350.00 |
| (b) Nets two at | \$183.00 each |
| (c) Gazebo cover | \$750.00 |
| (d) Windscreens | \$1,500.00 plus tax to do all around both courts |
| (e) Clay | \$350.00 |

MOTION: A motion was made by Bob Hajicek to proceed with the net posts at \$350.00, new nets at \$183.00 each, Gazebo cover at \$750.00, clay at about \$350.00 and to replace the fountain. Seconded by Donna Flammang. All in favor, motion passes.

6) Old Business:

- a) LLCA Vote Meeting – Amendment changes prepared by the Association Attorney were reviewed by the Board.

MOTION: A motion was made by Mary Ann Cowart to recommend to the members to pass the amendment change. Seconded by Patrick Tardiff. All in favor, motion passes.

Members meeting will be held on October 4, 2011 at 7:00 in the Clubhouse.

- b) TEM Update – Security measures at the clubhouse have been progressing along but not yet completed.
- c) Comcast Contract – Contract was signed on Tuesday, August 16, 2011. Contract effective date is October 1, 2011. Letter will be mailed to the residents soon.
- d) Oak Tree Trimming Update – Discussed previously in the meeting.

7) New Business:

- a) Chairs for Pool Deck – 15 chairs are needed to replace the missing chairs.

MOTION: A motion was made by Jeff Kelly to purchase 16 chairs from Leaders to replace the missing chairs. Seconded by Donna Flammang. All in favor, motion passes.

- b) Clean up Wall in Club House -

MOTION: A motion was made by Bob Hajicek to remove the "entertainment center" from the wall of the clubhouse as per the Elias Brothers proposal and cost, refurbish the wall and purchase a big screen TV and electronics needed not to exceed \$4,500.00. Seconded by Mary Ann Cowart. All in favor, motion passes.

Visit us at

www.lagunalakesassociation.com

This agenda was prepared by Alliant Association Management:
6719 Winkler Road Suite 200, Fort Myers Florida, 33919,
In accordance with Florida Statutes.
Cc: BOD; LLCA File

- c) BBQ Deck – No discussion
- d) Replace TV – No discussion

e) Trademark – Laguna Lakes Logo is not a registered trademark and is being used without the permission of the Board of Directors.

MOTION: A motion was made by Mary Ann Cowart to register the Laguna Lakes name and logo as a trademark at a cost of around \$2,700.00. Seconded by Bob Hajicek. All in favor, motion passes.

8) **Other Business:**

a) Next meeting – September 26, 2011

9) **Homeowners Comments** (up to 3 minutes each, time permitting):

Question: Due to the Comcast contract changes when will the homeowners see their \$500.00?

Answer: This will be decided on and discussed at the Budget Meeting.

10) **Adjournment:**

MOTION: A motion was made by Mary Ann Cowart to adjourn the meeting at 9:08 pm. Seconded by Donna Flammang. All in favor, motion passes.

The next meeting will be held on September 26th, 2011 at 7pm.

*Respectfully Submitted by
Kim Hertner, CAM
Patrick K. McGuire, CAM
Alliant Association Management*

Visit us at

www.lagunalakesassociation.com

This agenda was prepared by Alliant Association Management;

6719 Winkler Road Suite 200, Fort Myers Florida, 33919,

In accordance with Florida Statutes.

Cc: BOD; LLCA File